

Notice of Allowability

Application No.

10/658,731

Examiner

Robert Grant

Applicant(s)

SYRACUSE ET AL.

Art Unit

2838

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 9-9-03.
2. ☒ The allowed claim(s) is/are 1-17.
3. ☒ The drawings filed on 09 September 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☒ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 3/25/04 (11) 2/19/05 (11) 9/9/03 (11)
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Michael Sherry 3/21/05
MICHAEL SHERRY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

DETAILED ACTION

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Scalise on the 9th of March 2005.

The application has been amended as follows:

In Claim 1; on line 14 after "current" please insert -- of significantly greater amplitude than that of a pre-pulse current or open circuit voltage --.

On line 27 after "current" please insert -- of significantly greater amplitude than that of a pre-pulse current or open circuit voltage --.

In Claim 12; on line 14 after "current" please insert -- of significantly greater amplitude than that of a pre-pulse current or open circuit voltage --.

On lines 27 after "current" please insert -- of significantly greater amplitude than that of a pre-pulse current or open circuit voltage --.

2. The following changes to the drawings have been approved by the examiner and agreed upon by applicant: submission of formal drawings. In order to avoid

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abandonment of the application, applicant must make these above agreed upon drawing changes.

Allowable Subject Matter

1. The following is an examiner's statement of reasons for allowance: Claim 1-17 recite, inter alia, a method for powering an implantable medical device by discharging a second cell, waiting a predetermined time interval and discharging the cell again, then deriving a curve from the first and second discharge. Repeating the process for the third cell. Then taking a first voltage reading at a predetermined point on the curve from the second cell to determine the first load voltage. Synchronizing a first depth-of-discharge of the first load voltage reading with the second discharge curve to determine a corresponding second depth-of-discharge reading of the third cell. Then subtracting the second load voltage reading from the first loaded voltage reading and then dividing by the first loaded voltage reading to determine a percentage change, and pulse discharging the first cell powering the implantable medical device at least about once every 90 days and then upon the percentage change exceeding about 3% of the first loaded voltage reading, discharge the first cell to deliver periodic current pulse discharge of significantly greater amplitude than that of a pre-pulse current or open circuit voltage immediately prior to the periodic current pulse discharges at intervals less than 90 days.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Grant whose telephone number is 571-272-2727. The examiner can normally be reached on M-F 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Sherry can be reached on 571-272-2084. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RG

3/21/05
MICHAEL SHERRY
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